IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 15795 of 2004

Between:

M.S. Dakshina Murthy, S/o. Late Moogi Subbaiah,
R/at 14/1, Brahmin Street, Dharmavaram, Anantapur

District.

..... PETITIONER

AND

1 Government of Andhra Pradesh, Revenue Department,
Rep. by its Principal Secretary, Secretariat, Hyderabad.
2 District Collector, Anantapur District, Anantapur.
3 Mandal Revenue Officer, Dharmavaram, Anantapur

District.
4 Director of Municipal Administration, Government of

Andhra Pradesh, Hyderabad.
5 Regional Director-cum-Appellate Commissioner of

Municipal Administration, Anantapur.
6 Commissioner, Dharmavarm Municipality,

Dharmavaram, Anantapur District.
7 Executive Engineer (R&B) Division, Dharmavaram,

Anantapur District.
8 Station House Officer, Police Station, Dharmavaram,

Anantapur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or direction, preferably one in the nature of Writ of Mandamus, declaring the action of the respondents in not taking any action to remove the encroachment over the Government, land in S.No.529 situated in Dharmavaram Village and Mandal, Anantapur District, in terms of order dated 18-11-2003 in W.P.No.24220/2003 keeping in view the observations of this Hon'ble Court in its Judgment dated 8-1-2004 in Taken Up W.P.Nos.3616 and 4711/2000 as arbitrary, illegal, and contrary to law and consequently direct the respondents to take

immediate action to remove the encroachment over the Government Land in S.No.529 situated in Dharmavaram Village and Mandal, Anantapur District, as per the list of encroachers prepared by the 3rd respondent on 17-7-2004 forthwith;

Counsel for the Petitioner: MR.G.BHASKAR

Counsel for the Respondent No.: GP FOR REVENUE

The Court made the following :

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Revenue.

Pursuant to the directions issued earlier in W.P.No.24220 of 2003, the respondents have already initiated action for removing all the encroachments over the Government land. Even as per the petitioner, third respondent prepared a list of encroachers on 17-7-2004. As per the said list, 35 names are shown as encroachers over the Government land as well as 49 names are shown as encroachers over the petitioner's land. The petitioner also filed O.S.No.41 of 2004 and obtained interim injunction in I.A.No.89 of 2004 from the Junior Civil Judge, Dharmavaram on 6-2-2004. In the said suit an Advocate Commissioner was appointed in I.A.No.171 of 2004 for the purpose of noting down the physical features about the encroachments. It appears the Advocate Commissioner submitted his report to the court below on 5-4-2004 opining that the structures are recent and temporary in nature. In view of the same filing of the present writ petition is nothing but the abuse of process of law since the respondents have already identified the encroachers and prepared a list and submitted a report on 17-7-2004.

In view of the same, the respondents have to follow the due procedure prescribed by law for due eviction of the encroachers over the Government land. But the petitioner cannot insist the respondents that they should evict the encroachers, if the same is unobjectionable and it would not have the effect of depriving of the petitioner of his property. But in this writ petition no relief can be granted to the petitioner since the respondents have already identified the encroachers and prepared a list and submitted a report on 17-7-2004.

Accordingly, the Writ Petition is dismissed at the admission stage.

_____

A. Gopal Reddy, J.

3rd September, 2004.

Js.

To

1 The Principal Secretary, Government of Andhra

Pradesh, Revenue Department, Secretariat,

Hyderabad.
2 District Collector, Anantapur District, Anantapur.
3 Mandal Revenue Officer, Dharmavaram, Anantapur

District.
4 Director of Municipal Administration, Government of

Andhra Pradesh, Hyderabad.
5 Regional Director-cum-Appellate Commissioner of

Municipal Administration, Anantapur.
6 Commissioner, Dharmavarm Municipality,

Dharmavaram, Anantapur District.
7 Executive Engineer (R&B) Division, Dharmavaram,

Anantapur District.
8 Station House Officer, Police Station, Dharmavaram,

Anantapur District.

9 2 CCs to G.P. for Revenue, High Court Buildings, Hyderabad.

10 2 CD copies.